

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF WYOMING

2017 JUL 12 AM 11:12

In Re:

POWELL VALLEY HEALTH CARE, INC.

Debtor-in-possession.

Chapter 11 TIM J. ELLIS, CLERK
Case No. 16-20326

AND

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

**HOMELAND INSURANCE COMPANY OF NEW
YORK,**

Plaintiffs,

v.

**POWELL VALLEY HOSPITAL DISTRICT, POWELL
VALLEY HEALTH CARE, INC., HEALTHTECH
MANAGEMENT SERVICES, INC., JEFFREY
HANSEN, M.D., and WILLIAM D. PATTEN,**

Defendants,

AND

**HEALTHTECH MANAGEMENT SERVICES, INC. and
WILLIAM D. PATTEN,**

Counterclaimants,

v.

**UMIA INSURANCE, INC., and LEXINGTON
INSURANCE COMPANY,**

Counterclaim-Defendants,

AND

Case No. 1:15-cv-00031-ABJ

POWELL VALLEY HOSPITAL DISTRICT, POWELL
VALLEY HEALTH CARE, INC., and JEFFREY
HANSEN, M.D.,

Cross-Claimants,

v.

UMIA INSURANCE, INC., and LEXINGTON
INSURANCE COMPANY,

Crossclaim-Defendants.

INSTRUCTIONS FOR SETTLEMENT CONFERENCE

The parties shall appear before the Honorable Mark L. Carman, United States Magistrate Judge at 11:00 o'clock a.m. on August 2, 2017, at the law office of Spencer Fane LLP, 1700 Lincoln Street, Suite 2000, Denver, Colorado, for purposes of a settlement conference. This mediation is scheduled for August 2, 3, and 4, 2017. The parties shall appear according to the following schedule:

- August 2, 2017 11:00 A.M.: UMIA, Lexington Insurance Co, & One Beacon Insurance Co.
- August 3, 2017 8:30 A.M.: All parties.
- August 4, 2017 8:30 A.M.: All parties.

Consideration of settlement is a serious matter that requires thorough preparation prior to the settlement conference. Set forth below are the procedures the Court will require the parties to follow and the procedures the Court typically will employ in conducting the conference.

1. CONFIDENTIAL SETTLEMENT STATEMENTS

At least five (5) calendar days before the conference (no later than July 28, 2017), each of the parties shall submit a confidential settlement statement or such materials as the party believes will sufficiently inform Judge Carman:

- The nature of the claims of the claimants with an honest assessment of liability and reasonable settlement range (Counsel for Claimants and/or committee);
- The date the claim was communicated to a potential defendant (Counsel for Claimants and/or debtor);
- The terms of any existing proposed or actual settlements on behalf of the debtor (debtor and/or committee);
- A short statement as to the status of any claims or lawsuits (at time of stay) as to each of the claimants as well as identification of which insurance company had coverage when the claim was made (Counsel for Claimants);
- A detailed but summarized explanation of the injuries alleged in the underlying lawsuits as to each Claimant as well as a concise explanation how claimant alleges any defendant in those underlying actions are legally liable (Counsel for Claimants);
- A brief statement as to available defenses as to Claimant's claims (Powell Valley Health Care, Inc., UMIA, Lexington Insurance, One Beacon Insurance, HealthTech Management Services, Inc., Powell Hospital District and Dr. Jeffery Hansen);
- A spreadsheet or other summary detailing the specific economic, non-economic and punitive damages claimed and, as to each damage identified, a detailed breakout of the amounts claimed by category that support the amounts as identified in those Form 410 Proof of Claims submitted in the bankruptcy court (Counsel for Claimants);

- Full report of results of any previous attempts to mediate or settle any portion of this matter (all parties);
- General statement of the applicable insurance policies including named insured, additional insureds, term, limits (as stated in policy and currently available), and any clause which is significant to the matters to be discussed at the mediation (all insurance companies)
- Statement as to timeline for notice of claim and defense (date provided and date terminated if no longer providing a defense) (all insurance companies);
- If an insurance company has withdrawn the defense of insured, a short statement as to the basis of the termination of defense of insured (all insurance companies);
- Short statement of the legal principals controlling as to the basis of the insurance companies to contest coverage, with citations to significant cases (all insurance companies who have contested or denied coverage for claims at issue in this matter);
- Short statement of the legal principals which would support debtor or claimants' contention that the insurance contracts provide coverage for the claims at issue in this matter; (debtor, committee and/or claimants);
- Names and roles of all persons who shall attend the mediation on behalf of a party;

The statement shall be provided to Judge Carman (not filed) for his use in conducting the settlement conference. The parties should endeavor to keep the statements as concise as reasonably possible and where appropriate direct the Judge to specific pleadings rather than provide copies of those pleadings with their statement. The submission should be emailed to wyojudgemlc@wyd.uscourts.gov.

2. ATTENDANCE OF PARTIES REQUIRED

Parties with full and complete settlement authority are required to personally attend the conference.

3. MEDIATION FORMAT

This is a complex mediation. The majority of the mediation will be conducted by private caucus by the Judge Carman with the assistance of Cody L. Balzer. Judge Carman may excuse some parties from portions of the mediation or set up an alternative schedule depending on the information supplied in the settlement statements. The Court expects both the lawyers and the party representatives to be fully prepared to participate. Judge Carman encourages all parties to keep an open mind in order to reassess their previous positions and to discover creative means for resolving the dispute.

4. STATEMENTS INADMISSIBLE

The Court expects the parties to address each other with courtesy and respect. Parties are encouraged to be frank and open in their discussions. As a result, statements made by any party during the settlement conference are not to be used in discovery and will not be admissible at trial.

5. ISSUES TO BE DISCUSSED

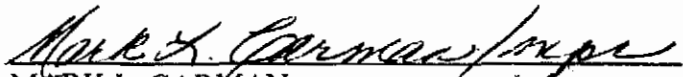
Parties should be prepared to discuss the following at the settlement conference:

1. What are your goals in the litigation and what problems would you like to address in the settlement conference? What do you understand are the opposing side's goals?
2. What issues (in and outside of the lawsuit) need to be resolved? What are the strengths and weaknesses of your case?
3. Do you understand the opposing's side's view of the case? What is wrong with their perception? What is right with their perception?

4. What are the points of agreement and disagreement between the parties? Factual? Legal?
5. What are the impediments to settlement? Financial? Emotional? Legal?
6. Does settlement or further litigation better enable you to accomplish your goals?
7. Are there possibilities for a creative resolution of the dispute?

A copy of these Instructions for Settlement Conference is being sent to each person listed on the attached distribution list.

Dated this 12th day of July, 2017.


MARK L. CARMAN
UNITED STATES MAGISTRATE JUDGE
By: Maureen P. Cairns, Deputy Clerk, with express
permission

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